

Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 CIAE-00 COME-00 DODE-00 DOTE-00

FMC-01 INR-07 NSAE-00 CG-00 OFA-01 DLOS-04 L-03

TRSE-00 PA-01 USIA-06 PRS-01 SP-02 FRB-03 OMB-01

TAR-01 AGR-05 AID-05 IO-10 LAB-04 OIC-02 SIL-01

STR-04 CIEP-01 CEA-01 /078 W
----- 021975

P 292301Z AUG 75

FM AMEMBASSY GUATEMALA

TO SECSTATE WASHDC PRIORITY 7985

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E.O. 11652: N/A

TAGS: EWWT, GT

SUBJECT: DELTA/FLOMERCA PROBLEM - CONGRESSIONAL RATIFICATION OF
UN LINER-CONFERENCE CONDUCT CODE

REF: A. GUATEMALA 4229 AND PREVIOUS

B. GUATEMALA 4634

SUMMARY: GUATEMALAN CONGRESS HAS RATIFIED UNCTAD LINER-
CONFERENCE CONDUCT CODE, BUT SHIPPING/COMMERCIAL INTERESTS
HERE HAVE POINTED OUT CARGO-SHARING PROPOSAL - 40 PERCENT TO
GUATEMALAN LINES, 40 PERCENT TO LINES OF TRADE PARTNERS, 20
PERCENT TO THIRD-COUNTRY LINES - CONFLICTS WITH LAW GRANTING
EQUIVALENT OF 60 PERCENT OF IMPORT CARGO TO GUATEMALAN LINES.
RATIFICATION NOT YET SIGNED BY PRESIDENT, AND IT IS HOPED MATTER
WILL BE RETURNED TO GOVERNMENT FOR STUDY OF WHERE GUATE-
MALAN INTERESTS REALLY LIE RELATIVE TO CODE. IF CODE COMES
INTO EFFECT HERE, MIGHT PREVAIL OVER DISCRIMINATORY LAW WHICH
DELTA PROTESTING BEFORE FMC AND STR AND MIGHT INDICATE
GUATEMALA MOVING TOWARDS GRANTING TO DELTA EQUAL ACCESS TO
CARGO (PROVIDING US-GUATEMALA SHIPPING CONFERENCE FORMED
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AND DELTA BECOMES MEMBER). END SUMMARY

1. UNDER DECREE NO. 57-75, GUATEMALAN CONGRESS HAS RATIFIED GOG ADHERENCE (NOVEMBER 15, 1974) TO UN CONVENTION ON CODE OF CONDUCT FOR LINER CONFERENCES. MATTER NOW GOES TO PRESIDENT FOR FINAL SIGNATURE. DECREE NOT YET PUBLISHED IN OFFICIAL GAZETTE. WILL REPORT WHEN IS.

2. NUMBER OF ELEMENTS IN SHIPPING/COMMERCE HERE MUCH DISTURBED BY WHAT APPEARS TO HAVE BEEN ROUTINE, NEAR-MINDLESS ACCEPTANCE BY CONGRESS OF ENTIRELY NEW SHIPPING REGIME WITHOUT FULL INQUIRY INTO OR CONSIDERATION OF EFFECTS ON TRADE INTERESTS OF GUATEMALA. IN LETTER AUGUST 26 TO COORDINATING COMMITTEE OF AGRICULTURAL, COMMERCIAL, INDUSTRIAL AND FINANCIAL ASSOCIATIONS OF GUATEMALA (CACIF) - COPY OF WHICH SENT GOG-CHAMBER OF COMMERCE HAS ASKED FOR FULL STUDY OF MATTER, POINTING OUT INTER ALIA THAT CONFERENCE CARGO-SHARING SYSTEM PROPOSED UNDER CONVENTION CONFLICTS WITH PRESENT ALLOCATION OF ALL RPT. ALL DUTY-FREE IMPORTS TO GUATEMALAN-FLAG LINES. CHAMBER NOTES THAT INTERNATIONAL CONVENTION AGREED TO BY A COUNTRY TAKES PRECEDENCE OVER NATIONAL LAWS, INCLUDING DECREE 41-71 (AT ISSUE IN HEARINGS BEFORE FEDERAL MARITIME COMMISSION AND SPECIAL TRADE REPRESENTATIVE - REF. A).

3. FIRST READING IN CONGRESS OF BILL OF RATIFICATION HELD AUGUST 13 AND WAS DULY REPORTED IN PRESS. NO PUBLIC NOTICE SINCE, INCLUDING OF RECENT PASSAGE BY CONGRESS. CONGRESSIONAL COMMITTEE ON FOREIGN RELATIONS HAD BEEN ASSIGNED BILL, AND ACCORDING TO ITS REPORT TO CONGRESS (WHICH EMBASSY GIVEN IN CONFIDENCE), HAD RECEIVED RECOMMENDATIONS THAT CONGRESS RATIFY CONVENTION-GOG-OWNED LINE FOLMERCA IN SEPTEMBER 1974, MINISTRY OF ECONOMY IN OCTOBER, MINISTRY OF FOREIGN AFFAIRS IN DECEMBER, AND COUNCIL OF STATE IN MARCH 1975. NONE OF RECOMMENDATIONS DESCRIBED IN COMMITTEE REPORT SEEMED BASED ON DETAILED APPLICATION OF PROVISIONS OF CONVENTION TO SITUATION IN GUATEMALA, AS IT EXISTS OR AS IT MIGHT BE IMPROVED. CHAMBER OF COMMERCE - WHICH HAD BEEN LEADING PROPONENT OF RECTIFICATION OF PRESENT DISCRIMINATORY REGIME ON IMPORTS, THROUGH ELIMINATION OF MONOPOLY RIGHTS EMPLOYED BY GUATEMALAN LINES AND APPLICATION ACROSS-THE-BOARD OF A MARITIME TAX TO BENEFIT THE LINES - KNEW, OF COURSE, LIMITED OFFICIAL USE

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THAT RATIFICATION BILL HAD BEEN PRESENTED IN CONGRESS BUT APPARENTLY DID NOT MOVE TO RAISE ISSUES OF CONCERN WITH CONGRESSIONAL DEPUTIES. CHAMBER ACTED ONLY AFTER IT HAD LEARNED THAT DEPUTIES HAD RATIFIED CONVENTION.

4. HOPE OF CHAMBER NOW IS THAT BY RAISING LEGAL PROBLEMS WITH GOG, IT MAY DELAY PRESIDENT'S SIGNATURE ON BILL OF RATIFICATION UNTIL MATTER CAN BE MORE DEEPLY STUDIED AND

LONG-TERM INTERESTS OF GUATEMALA IDENTIFIED RELATIVE TO
NEW SYSTEM PROPOSED.

5. NO LINER CONFERENCES EXIST AT PRESENT ON TRADE OUT OF/
INTO GUATEMALA. PRESENT SYSTEM OF CARGO-SHARING IS OPEN
ONE ON ALL EXPORTS AND ON IMPORTS WHICH ARE NOT EXEMPT FROM
DUTY. TRANSPORT OF DUTY-FREE IMPORTS RESERVED TO THE THREE
GUATEMALAN-FLAG LINES, PLUS FOREIGN LINES WITH ASSOCIATION
AGREEMENTS WITH FLOMERCA, PLUS NON-ASSOCIATED LINES (LIKE
DELTA) WHICH CAN GET WAIVERS FROM EACH OF THREE GUATEMALAN
LINES TO BRING IN EXONERATED CARGO. IF CONFERENCES ARE
ESTABLISHED ON ROUTES OF TRADE OUT OF/INTO GUATEMALA, 40-40-
20 SYSTEM OF UN CODE WOULD COME INTO EFFECT. GUATEMALAN
LINES WOULD GET SHARE OF EXPORTS AND NON-EXONERATED IMPORTS
WHICH NOW DO NOT HAVE. HOWEVER, FLOMERCA WOULD LOSE COM-
MANDING POSITION ON EXONERATED IMPORTS (60 PERCENT OF TOTAL) AND
FOLLOWING ANNOUNCEMENT OF ASSOCIATION AGREEMENTS, WOULD
LOSE IMPORTANT INCOME THEREFROM; WITH TWO OTHER GUATEMALAN
LINES (NOT AUTHORIZED TO SIGN ASSOCIATION AGREEMENTS),
FLOMERCA FINALLY WOULD LOSE "CONSIDERATIONS" GAINED FROM
GRANTING WAIVERS AUTHORIZING TRANSPORT OF EXONERATED CARGO
BY NON-ASSOCIATED LINES. AUTHORITATIVE SOURCES HERE BELIEVED
FLOMERCA MISCALCULATED BENEFITS TO BE DERIVED FROM 40-40-20
SYSTEM, WILL TURN OUT LOSER, AND SHOULD HAVE OPPOSED RATI-
FICATION OF CONVENTION RATHER THAN HAVE SUPPORTED IT.

6. ON OTHER HAND, US-FLAG COMPANIES STAND TO GAIN FROM
TRADE AT PRESENT, ASSOCIATED COMPANIES ARE ALL NON-US-FLAG:
SO ON JOINING CONFERENCE, WOULD BE LIMITED TO 20 PERCENT SHARE OF
TOTAL IMPORTS FROM US (PLUS WHATEVER THEY MIGHT GAIN FROM
CHARTERS TO THEM BY FLOMERCA TO HELP CARRY GUATEMALAN SHARE).
US-FLAG COMPANIES SERVING GUATEMALA - DELTA AND SEA LAND -
WOULD HAVE THE REMAINING 40 PERCENT SHARE OF IMPORTS.
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UNDER CONFERENCE SYSTEM, DELTA WOULD THUS
GAIN NEAR-EQUAL ACCESS TO IMPORT CARGO WHICH IT HAS BEEN
SEEKING ...

7. THAT IS, A) WHEN THE CODE FINALLY COMES INTO EFFECT
WORLD-WIDE AND B) IF RATIFICATION OF CODE IS COMPLETED HERE,
IF LEGAL IMPEDIMENTS TO NEW SYSTEM OF CARGO-SHARING ARE RE-
MOVED, IF CONFERENCE IS SET UP ON US-GUATEMALA TRADE, AND IF
DELTA IS INCLUDED IN THAT CONFERENCE. TO PUT IT MILDLY,
THE SITUATION HAS BEEN SOMEWHAT CONFUSED BY GUATEMALA'S
NEAR-FINAL ADHERENCE TO THE CODE. EMBASSY WILL REPORT FURTHER
AS THE ISSUES BECOME CLEARER.

8. IN INTERIM, WOULD APPRECIATE PROVISION OF TEXT OF CON-
VENTION (REQUESTED REF. B), PLUS STATUS REPORT ON NUMBER

OF COUNTRIES WHICH HAVE RATIFIED CONVENTION AND PERCENTAGE
OF WOLRD LINER-TONNAGE WHICH THEIR FLEETS REPRESENT RELATIVE
TO THE 25 PERCENT LEVEL WHICH MUST BE REACHED BEFORE CONVENTION
BECOMES EFFECTIVE. ANY ESTIMATE AS TO WHEN THAT WILL BE
WOULD ALSO BE USEFUL TO US HERE.
ANDREWS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DISPUTES, MARINE TRANSPORTATION, AGREEMENTS, LAW, STEAMSHIP LINES, CARGO SHIPS
Control Number: n/a
Copy: SINGLE
Draft Date: 29 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: GolinoFR
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975GUATEM04676
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750300-0571
From: GUATEMALA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975086/aaaaaesr.tel
Line Count: 175
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 GUATEMALA 4229
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 09 SEP 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 SEP 2003 by izenbei0>; APPROVED <05 NOV 2003 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: DELTA/FLOMERCA PROBLEM - CONGRESSIONAL RATIFICATION OF UN LINER-CONFERENCE CONDUCT CODE
TAGS: EWWT, GT, DELTA, FLOMERCA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006